

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/03/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION No.2487 OF 2003

WPMP.NOs.3098 & 3099 OF 2003

AND

WVMP.NO.231 OF 2003

Kesavalu Naidu,

S/o. Gopala Naidu .. Petitioner

-Vs-

1. The Chennai Metropolitan
Development Authority,
Rep. by its Member-Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2. The Chief Executive Officer,
Area Development Unit,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

3. R. Sivaprakasam,
No.15, Park Street,
Kilpauk Garden Colony,
Chennai 600 010. .. Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.Mohan Parasaran
Senior Counsel for
Mr.ARL. Sundaresan

For Respondents 1 & 2: Mr.V. Perumal

Respondent -3 : Mr.R. Thiagarajan

:J U D G M E N T

The petitioner has prayed for quashing the letter No.K1/9347/2002

dated 3.12.2002 and for directing the respondents 1 & 2 to allot plot No.179-E Road, at the junction of E-Road and F-Road of Koyambedu Market Complex.

2. The first respondent published advertisement in New Indian Express dated 5.9.2002 inviting applications for allotment of plots for various purposes including commercial plot for Weigh Bridge. The petitioner submitted his application on 16.9.2002. Subsequently on 22.1.2003, the petitioner came to understand that the respondent No.3 was allotted the plot for the purpose of installation of weigh bridge. Such allotment dated 3.12.2002 has been challenged on the ground that without following the procedure of allotment by drawal of lots, the plot has been allotted in favour of the respondent No.3. It has been specifically asserted that even before the last date for receipt of the applications, the respondent No.3 was selected as the person and such allotment, without following the procedure, is arbitrary and should be quashed.

3. A counter affidavit has been filed by the respondent No.1 indicating that for establishing the weigh bridge, only two applications have been received, one from the petitioner and other from the respondent No.3. The petitioner had specifically applied for allotment of commercial plot on [A] road, whereas the respondent No.3 had applied for allotment of 4000 sq.ft. on [E] road. Since the plots on [A] road were not of the size required by the petitioner and he had not applied for any other plot on [E] road, he cannot have any grievance regarding allotment in favour of the respondent No.3. It has been further stated that as per the advertisement, plots are to be allotted on first come first serve basis.

4. In the counter affidavit filed on behalf of the respondent No.3 it is stated that the respondent No.3 had already purchased the machineries. It has been further stated that daughter of the petitioner had filed a writ petition and another daughter of the petitioner had filed a title suit challenging such allotment. Since two daughters of the petitioner have become unsuccessful in their efforts to stall the allotment, the present writ petition has been filed by the father suppressing the earlier litigations.

5. Learned senior counsel appearing for the petitioner has contended that even though 20.9.2002 was the last date for submission of the applications, it is apparent from the counter filed on behalf of the third respondent that the third respondent had been allotted the disputed plot, which would go to show that the authorities had already decided to allot the plot in favour of the respondent No.3 without following the procedure. It is of course true that in the counter affidavit of the respondent No.3 it has been indicated that he had placed orders for machineries even before the last date for receipt of the applications was over. However, this by itself does not conclusively establish that allotment had been made even prior to the last date for receipt of the applications. The explanation of the counsel for the respondent No.3 that the respondent No.3 had placed orders for such machineries in anticipation of allotment of the plot or for utilisation of the same in an alternative place cannot be brushed aside.

6. Learned senior counsel appearing for the petitioner has also

contended that as per the advertisement, allotment should have been made by conducting drawal of lots and such a procedure has not been followed. It is apparent from the counter affidavit of the respondent No.1 that for installation of weigh bridge only two applications have been received. The petitioner had specifically applied for allotment of a plot of much lesser size in "A" road of the Market Complex, whereas the allotment has been made in favour of the respondent No.3 of a plot in "E" road. Even the plot allotted to the respondent No.3 is of the size 3265 sq.ft., whereas the petitioner had applied for allotment of 2400 sq.ft. Since the plot allotted did not match the specification of the petitioner, who had applied for allotment of smaller plot in "A" road, the petitioner cannot have any grievance.

7. The contention of the learned counsel for the respondent No.3 that the petitioner being a rival in the business has tried to thwart the efforts of the respondent No.3 by any means cannot be lightly brushed aside. Even though, in law, the writ petition or the suit filed by the daughters of the petitioner cannot be said to be litigations by the petitioner himself, the very fact that a copy of the application filed by the petitioner on an earlier occasion had been filed in the Miscellaneous cases in the suit filed by the daughter, gives credence to the submission that the earlier litigations were inspired by the petitioner.

8. For the aforesaid reasons, I do not find any merit in this writ petition, which is accordingly dismissed. It is however made clear that in case the petitioner applies for any other plot of lesser size, such application may be considered by the respondents 1 & 2 notwithstanding the dismissal of the writ petition. There is no order as to costs. Consequently, the connected Miscellaneous petitions are closed.

28-03-2003

Index : Yes

Internet : Yes

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To

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